Serial No. 09/893,981
Amendment dated December 30, 2005
Office Action dated June 30, 2005

REMARKS

Claims 1-15 are pending in the application. Claims 13-15 are rejected under 35 U.S.C.

101 because the claimed invention is directed to non-statutory subject matter. Claims 4-6, 11

and 14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,526,516

B1 to Ishikawa et al. ("Ishikawa"). Claims 1-3, 7-10, 12-13 and 15 were rejected under 35

U.S.C. §103(a) as being unpatentable over Ishikawa et al. in view of U.S. Patent No. 6,477,388

B1 to Schmutz ("Schmutz"). Claims 13-15 are amended to overcome the 35 U.S.C. §101

rejection.

Applicants hereby reiterate that Schmutz was published as a patent on November 5, 2002,

well after the filing date of the present application. Accordingly, Schmutz is not prior art under

35 U.S.C. § 102(b).

Furthermore, with respect to the rejection of claim 6, the Office Action admits that the

feature of a computer rack is missing from Schmutz and argues that such a feature would be

obvious. Based on the presentation in the Office Action, it would be improper to reject claim 6

under 35 U.S.C. § 102 since all the features of claim 6 and the claim it depends on are admitted

as not disclosed in the Schmutz reference.

First, Applicants submit that the prior art does not teach, suggest or disclose "[a]

computer system, comprising ... a power controller ... *and responsive to the new total power*

requirement exceeding the known power capacity to cause said power supply *to reduce the*

power supplied by said power supply to each computer of said plurality of computers and to

provide said additional computer with less power than indicated in the request for power" (e.g.,

as described in the embodiment of claim 1).

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First, Applicants concur with the Office Action determination that Ishikawa does not describe causing the power supply to reduce the power supplied to each computer responsive to the new total power requirement exceeding the known power capacity, and providing the additional computer with less power than indicated in the request for power. *See* page 7, lines 1-4 of recent Office Action.

The Office Action asserts that Schmutz "teaches the reduction of power to each of the powered devices when the power supply fails to meet the total power requirement due to the failure of a portion..." at column 8, lines 44-60; column 11, lines 50-54; and column 5 lines 1-6. Applicants disagree. *See* page 7, lines 5-8 of recent Office Action. Column 5, lines 1-6 state:

> The new power request module 130 provides a way to determine if a power sink may be granted power. A new power request is typically made when there is a new power sink that requires a power source i.e. a new channel or a new installed device that requests power for transmission or operation, respectively.

The section above generally describes a new power sink and states the idea of determining whether a power sink may be granted power. However, it does not describe *any specific criteria* upon which to reduce the power supplied by said power supply to each computer of said plurality of computers. Next column 11, lines 50-54 describe:

> If the alarm indicates the addition of a power supply, the value Avail_Power is changed to reflect the increase in available power. If the alarm is a MCPA module failure, the alarm processing module 740 checks the active channels and if necessary adjusts the active channels such that all active channels are operating within the available power resources.

Again, the above section only generally describes adjustment of the power to the active channels, but does not describe any specific criteria upon which such a determination is made. Column 8, lines 44-60 state:

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Returning to step 500, since loss of a power source could strain the remaining power sources, the present invention in the current embodiment accounts for a possible loss of a power source by *reducing the power allocations of the power sinks whose allocations exceed the effective available power for each power sink. The total effective available power is the difference between the available power, designated Avail_Power, and the minimum allowable remaining power at the instant the power loss alert is received.* The minimum allowable remaining power at any instant is designated Min_Rem_Power. Following step 500, after the alarm has been to be an alert of the loss of a power source, in step 510 the alarm processing module 160 determines the number of active power sinks, in order to determine the portion of the total effective available power for each power sink. *(emphasis added)*

The above section of Schmutz describes the criteria upon which the power allocation of *individual* power sinks is reduced. Power allocation is reduced upon a determination that a sink has exceeded the "effective available power" predetermined *"for each power sink"*. It further defines the effective power allocations *as* the difference between the available power and the minimum allowable remaining power.

Therefore, contrary to the Office Action's assertion, the condition upon which the power allocation to individual components is reduced is not a determination based on the condition of the system as a whole as found in embodiments of the present application (i.e., "total power requirement"), but rather an individualized determination for each individual power sink (the surpassing of the "effective available power" for each). In other words, in the Schmutz reference, the difference between the available power and the minimum allowable remaining power *for each individual sink* determines the reduction of power of *that* sink, not any determination based on an exceeding of the total power requirement.

Applicants submit that since neither of the cited references describe at least a power controller responsive to the new total power requirement exceeding the known power capacity to cause said power supply to reduce the power supplied by said power supply to each computer of

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said plurality of computers as described in embodiments of the present application (e.g., claim

1), the 35 U.S.C. §103(a) rejection of claim 1 should be withdrawn. Independent claims 4, 7, 10,

11-15 contain similar allowable limitations and therefore should be allowed as well. Claims 2-3,

5-6 and 8-9 depend from allowable base claims and should be allowed as well.

Furthermore, Applicants reiterate Schmutz concerns broadband power management

within a broadband multi-carrier base station transceiver system. Looking at Fig. 6 of Schmutz,

a base station transceiver (BST) 600 is shown for a cellular communication network. A multi-

carrier power amplifier (MCPA) 660 is provided that includes a number of amplifier modules for

providing power in the BST 600. More particularly, the BST 600 includes a broadband

transceiver (BDT) module 650 that is powered by the MCPA 660. The BDT 650 is responsible

for the receipt and transmission of data in a time division multiple access (TDMA) system. As

known in the art, TDMA refers to designating periodic time slots to the transmission/receipt of

data. In the example of Schmutz, eight such time slots are provided (Col. 9, line 55). Each time

slot may include one or more channels (Col. 11, line 66 to Col. 12, line 3). Schmutz concerns

the power requirements of these "channels."

The Office Action places great emphasis on Fig. 8, which is described in Schmutz

beginning at Col. 11, line 54. Fig. 8 refers to the amount of power to supply to a channel in a

TDMA time slot. Thus, Schmutz is concerned with the amount of power required for

transmitting and receiving signals using such a channel. A channel is not a computer. At best,

the apparatus of Fig. 6 represents a computer, but the power requirements that are being

regulated occur completely within the BST 600 of Fig. 6. In particular, the MCPA 660 has a

limited ability to supply power to support the communication channels used by MDT 650.

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Accordingly, the system of Schmutz regulates how power is assigned to individual channels so as not to degrade performance.

Applicants reiterate a plurality of computers is not shown in Schmutz as recited in the claims. In claim 4 (and similarly in claims 11 and 14), a power controller is provided that is responsive to an additional computer and provide only standby power to the computer if the recited condition is met. The Office Action equates standby power for a computer as supplying a lesser amount to drive a communication channel and points to Col. 12, lines 51-65. Looking at Fig. 6, the recited section of Schmutz is equated to how much power is being supplied by MDT 650 to drive a particular channel in BDT 650 among a plurality of channels in BDT 650. Since BDT 650 cannot be looked upon as a plurality of computers and an additional computer as called for in these claims, Schmutz fails to teach or suggest the features of these claims. Applicants further point out that while the section vaguely describes "decid[ing] the power consumption modes for all of the devices", "sett[ing] the power consumption modes set by sending a power control signal to each device", and "transition[ing] to the power consumption mode specified by the power control signal", there is no mention in the cited section of a transition to a sleep mode as specifically recited in the rejected claims, or any equivalent thereof. For these reasons, Applicants submit the cited section is an inadequate basis for a 35 U.S.C. 102 rejection.

Arguments similar to the above can be applied to the other independent claims, claims 1, 7, 12-13, and 15. Schmutz does not pertain to reducing the power supplied to a plurality of computers when an additional computer requests power.

Finally, in addition and in the alternative, Applicants respectfully submit that there is no suggestion or motivation to combine the Schmutz and Ishikawa references beyond the

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impermissible use of hindsight. Applicants submit that a *prima facie* case of obviousness has not

been made. The MPEP requires that the references must suggest making the combinations.

MPEP §2141.01 (citing Hodosh v. Block Drug Co., Inc.); §706.02(j) (the initial burden is on the

examiner to provide a convincing line of reasoning with explicit or implicit suggestions to

combine references).

Merely stating that it would have been obvious for a person of ordinary skill in the art to

combine references, without pointing to a specific hint or suggestion to combine, has been

rejected by the Federal Circuit, as an invalid basis of rejection under 35 U.S.C. §103. *In re Lee*,

277 F.3d 1338, 1343 (Fed. Cir. 2002)(the court held that rejecting a conclusory statement that it

would have been obvious to combine the references without evidence of a teaching, motivation,

or suggestion to select and combine the references, citing numerous case); *In re Dembiczak*, 175

F.3d 994,999 (Fed. Cir. 1999) ("Our case law makes clear that the best defense against the subtle

but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the

requirement for a showing of the teaching or motivation to combine prior art references.") In

this case, the Office Action has taken the subject matter directed towards a power control system

for computer peripheral devices and applied them to a disclosure in a non-analogous art,

specifically a vaguely described concept of power reductions in a system of telecommunications

"channels" (*see above*) as applied toward *broadband tranceiver stations*. Such vague

descriptions of a concept that clearly cannot "combined" are improper to serve the basis of a 35

U.S.C. §103(a) rejection. Moreover, Applicants maintain there is no teaching, suggestion or

motivation disclosed in either reference to combine the references that adequately form the basis

of a proper 35 U.S.C. §103(a) rejection of independent claim 1.

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Since features of each of the pending claims are not taught or suggested by the cited

references, reconsideration and withdrawal of the rejection of claims 1-15 under 35 U.S.C. §§

102(b) and 103(a) is respectfully requested.

Conclusion

For all the above reasons, the Applicant respectfully submits that this application is in

condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any

matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments

under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: <u>December 30, 2005</u>   By: _____

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